
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: County Auditors and County Recorders

FROM: Amanda J. Stanley, Communications Specialist

RE: Mortgage Deduction from Assessed Valuation, IC 6-1.1-12-1; 2

DATE: July 8, 2009

The purpose of this memorandum is to provide an overview of the mortgage deduction currently available and applicable to real property and mobile/manufactured homes not assessed as real property ("mobile/manufactured home") located in the State of Indiana.

This memorandum incorporates the 2009 legislative changes, effective July 1, 2009, as provided by House Enrolled Act (HEA) 1096 and HEA 1001(ss). These allow the mortgage deduction application to be filed with the county recorder with respect to real property and allow mortgage deduction applications completed on or before December 31 to be filed on or before January 5.

Who qualifies?

A person who is a resident of Indiana and, on the date the application is filed, either:

- (1) owns the mortgaged real property or installment loan financed mobile/manufactured home; or
- (2) is buying under a contract the real property or mobile/manufactured home, with the contract or memorandum of the contract recorded in the county recorder's office, which provides that he is to pay the property taxes.

Note: A person who has sold real property or a mobile/manufactured home to another person under a contract, which provides that the contract buyer is to pay the property taxes, may not claim the mortgage deduction with respect to the real property or mobile/manufactured home. (Therefore, if John Doe sells his property on contract to Tom Smith, he can no longer receive the mortgage deduction on that property. However, Tom Smith, who is purchasing the property and who is liable for the property taxes, would be eligible for the mortgage deduction.)

As defined in IC 6-1.1-1-10, a person includes a sole proprietorship, partnership, association, corporation, Limited Liability Company, fiduciary or individual.

What is the maximum deduction amount?

The total amount of mortgage deduction, which the person may receive for a particular year, is the lesser of:

- (1) the balance of the mortgage or contract indebtedness on the assessment date of that year;
- (2) one-half (1/2) of the assessed value of the real property or mobile/manufactured home; or
- (3) three thousand dollars (\$3,000).

Note: Under IC 6-1.1-12-40.5 and notwithstanding any other provision, the sum of the deductions provided to a mobile/manufactured home may not exceed one-half (1/2) of the assessed value of the mobile home. (Therefore, if a mobile/manufactured home is valued at \$50,000, the maximum amount of deductions the owner will receive on this property is \$25,000.

The homestead supplemental deduction is the only deduction applied outside of this limitation.)

If the balance of the mortgage or contract indebtedness is zero dollars (\$0) on the assessment date, the amount of the deduction received for that particular year would be zero dollars (\$0).

Example: A person purchases a property on March 2, 2009 and files for the mortgage deduction. The mortgage balance on March 1, 2009 is \$0; therefore, the amount of mortgage deduction received for 2009-pay-2010, even though the person met the application deadline, would be \$0.

How can a person file for the deduction?

In applying for the mortgage deduction, the person shall complete State Form 43709. A new application must be filed whenever a loan on real estate is refinanced.

Note: The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing.

In addition to the deduction application, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract with the first statement that the buyer files with respect to a particular parcel of property. When an individual purchasing a property on contract files the mortgage deduction application for the first time, he also must provide a copy of the recorded contract or recorded memorandum of the contract.

Real Property

The person recording the mortgage, contract or memorandum of the contract ("mortgage/contract") with the county recorder may file the mortgage deduction application for real property with the **county recorder** or the **county auditor**. The application must be completed and dated in the calendar year for which the person wishes to obtain the deduction.

Additionally, the application must be filed with the county recorder or the county auditor on or before January 5 of the immediately succeeding calendar year. (Therefore, if the application is completed and dated on or before December 31, 2009 and filed with the county recorder or county auditor on or before January 5, 2010, the mortgage deduction application deadline would be satisfied for property taxes first due and payable in 2010.)

Mobile/Manufactured Home

The person recording the mortgage/contract with the county recorder may file the mortgage deduction application for a mobile/manufactured home with the **county auditor**. The application must be filed during the twelve (12) months before March 31 of each year for which the person wishes to obtain the deduction. (Therefore, if the application is filed before March 31, 2010, the mortgage deduction application deadline would be satisfied for property taxes first due and payable in 2010.)

What is the county recorder's responsibility?

Upon receipt of the application and the recording of the mortgage/contract, the county recorder shall insert on the form the record number and page where the mortgage/contract is recorded. The county recorder shall then forward the completed application to the county auditor.

The county recorder may not impose a charge related to the mortgage deduction application.

The county recorder may not refuse to record a mortgage/contract because the mortgage deduction application is not included with the mortgage/contract; does not contain the required signatures; does not contain the required information; or is otherwise incomplete or inaccurate.

What is the closing agent's liability?

A closing agent is not liable for any damages claimed by the property owner or contract purchaser because of the closing agent's failure to provide or file the application for the mortgage deduction, any omission or inaccuracy in the application filed with the county recorder by the closing agent, or any determination made with respect to the person's eligibility for the mortgage deduction.

If you have any questions, please contact Communications Specialist Amanda Stanley at 317-233-9218 or astanley@dlgf.in.gov.